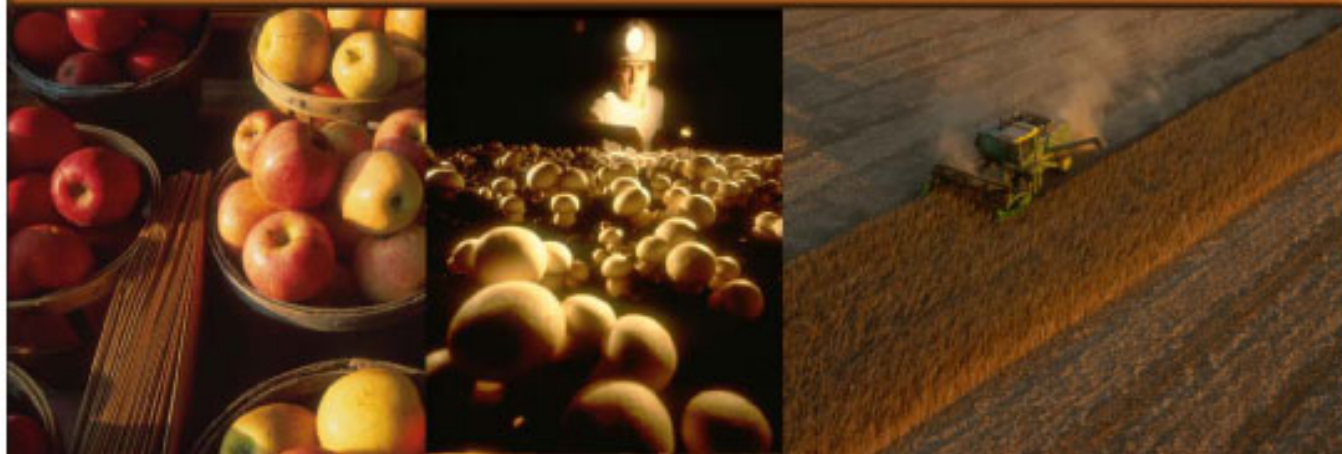


Equity in Agriculture:

Preserving the Value of Delaware's Rural Lands

Delaware Office of State Planning Coordination

© September 2005



Our Research Project

- Initiated in response to intense development pressure that is threatening our rural lands
- Culminated in drafting of the “Delaware Sprawl Prevention Act” HB 280

A quote from Governor Ruth Ann Minner:

“Dense developments dropped in the middle of our most rural areas put the future of our agriculture industry and the rural quality of life we all value at risk,” Gov. Minner said. “This bill reinforces the significant planning efforts of the state, counties and municipal governments. It also protects the farmers who have made long-term commitments to preserve their land and keep it in agriculture.”

Our Research Project

- Researched and reviewed issues of concern to Delawareans and rural land owners:
 - Land Value and Equity
 - Takings
 - Farm Credit
 - Rural Economic Development
 - Retirement Options
 - Impact on Housing Market / Affordable Housing

The State's Responsibilities

- Manage the “development, utilization, and control of land, water, underwater and air resources of the State to ensure that there are adequate supplies these resources for domestic, industrial, power, agricultural and other beneficial uses”

7 Delaware Code § 6001

The State's Responsibilities

- Ensure the efficient and prudent expenditure of public funds
- Protect the Environment
- Protect State Investments in Rural Areas
 - Agricultural Preservation
 - Open Space

What is the problem?

- Alarming trend of large scale subdivisions in rural areas is having many unintended consequences. . .

Suburbanites and Chickens Don't Mix!

Source: <http://www.doverpost.com/PostArchives/05-04-05/index.html>

Plans for Cartanza Chicken Farm Rile Neighbors

By Jeff Brown

Staff writer

Plans by the Cartanza family to build an array of chicken houses near three historic properties on Route 8 have ruffled more than a few feathers among angry residents opposed to the project.

The proposal calls for the construction of four poultry houses, each large enough to hold between 30,000 and 40,000 chickens, according to Chris Cartanza, office manager of nearby Shadybrook Farms, the farming operation founded by his father, the late Philip Cartanza, and now owned by his mother, Sandra.

“...it's not as rural as we'd like to see it” – quote from an Amish Farmer



The News Journal
www.delawareonline.com 50¢
... KENT & SUSSEX

THURSDAY Aug. 18, 2005

Farmers cashing in and getting out

Amish homes give way to subdivisions as building boom spreads to Kent County

By J.L. MILLER
The News Journal

DOVER — Bob Hodges still chuckles at the thought of the two enterprising Amish boys who hooked up a makeshift snowplow to a horse-drawn sleigh and cleaned up plowing driveways in his subdivision during the blizzard of 1996.

That was back when Hodges Wild Quail neighborhood west of Dover was a suburban outpost in a sea of farmland, much of it Amish-owned.

Hodges doesn't see as much of his Amish neighbors now, with subdivisions sprouting where soybeans once grew and traffic making it difficult for the "plain people" to drive their horse-drawn buggies into town.

As land values rise and a seemingly insatiable demand for new houses shows little sign of ebbing, the face of Delaware's rural landscape is changing.

Landowners, even the Amish, who settled here almost 100 years ago, are cashing in and heading to greener pastures.

Developers are profiting, the construction trades are booming and newcomers fleeing high-tax New Jersey and New York are selling their homes and snapping up farmland.

FARMLAND PRICES
Cost of Delaware farmland per acre

\$8,400
Sold for farm uses
\$114,737
For 95-acre Frederica farm listed for sale for \$10.9 million; value is pegged to development potential

An Amish buggy pulls into Rose Valley Furniture on Rose Valley School Road. The area is under severe development pressure.

The News Journal/JOYCE LIN

When does a subdivision become a town?

State planners say no to Isaacs Glen

Cape Gazette

6-14-05

DelDOT won't support
any road improvements

By Rachel Swick
Cape Gazette staff

The state's Preliminary Land Use Service (PLUS) issued a 24-page letter stating reasons the county should vote no on Isaacs Glen.

Isaacs Glen, a proposed 1,592-unit

development, including 1,311 single-family houses, 281 townhouses, 220 assisted-living units, retail and office space, a village hall and a 5,000-square-foot library, would be located on Route 30 north of Milton.

The developers, Reynolds Pond LLC, brought the proposal before the PLUS committee May 25. PLUS Director Constance Holland stated land-use policies conflict with the Isaacs Glen plan.

Isaacs Glen would exceed the size of most Sussex County municipalities, the report showed, and it would also be out of character with the surrounding area, which includes many acres of preserved agricultural land.

Glen Urquhart, a principle for Reynolds Pond, said the state's comments violate its own strategies. He quoted the state strategies guide, which says landowners have the right to develop their lands.

"Why spend state money to develop in areas where others are saying there is too much development?" asked Urquhart, citing congestion in the coastal area.

Isaacs Glen would be advantageous for the state, because the developer is paying the costs of the infrastructure, he said.

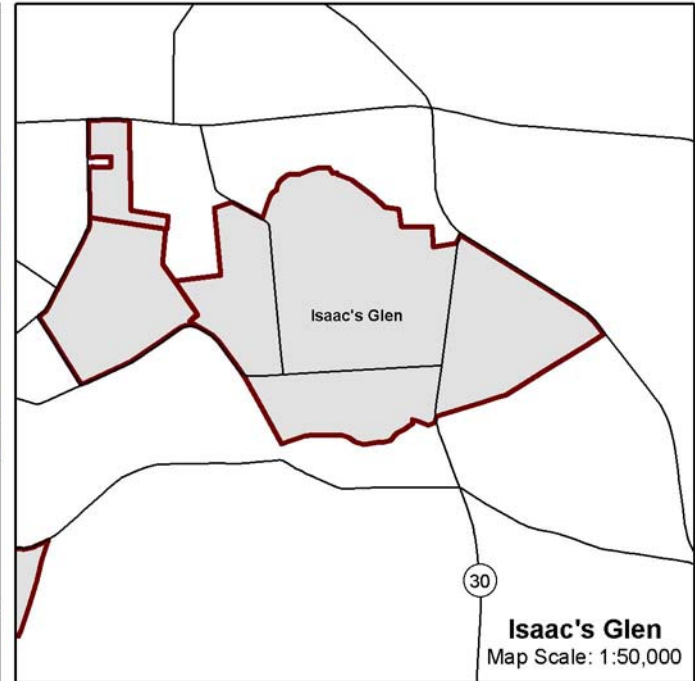
The PLUS recommendation to the developers and to the county says goals established under Gov. Ruth Ann Minner's

Continued on page 8

Milton v. Isaac's Glen

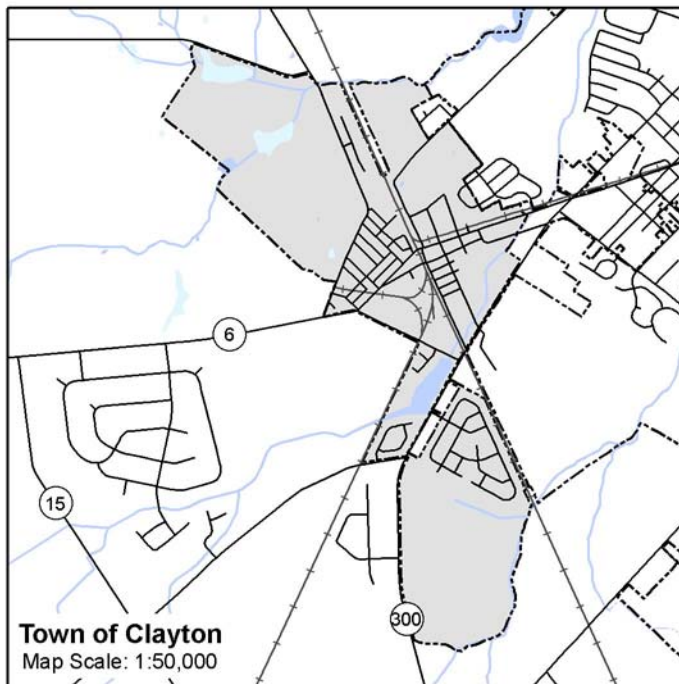


Population 1,657 in 2000

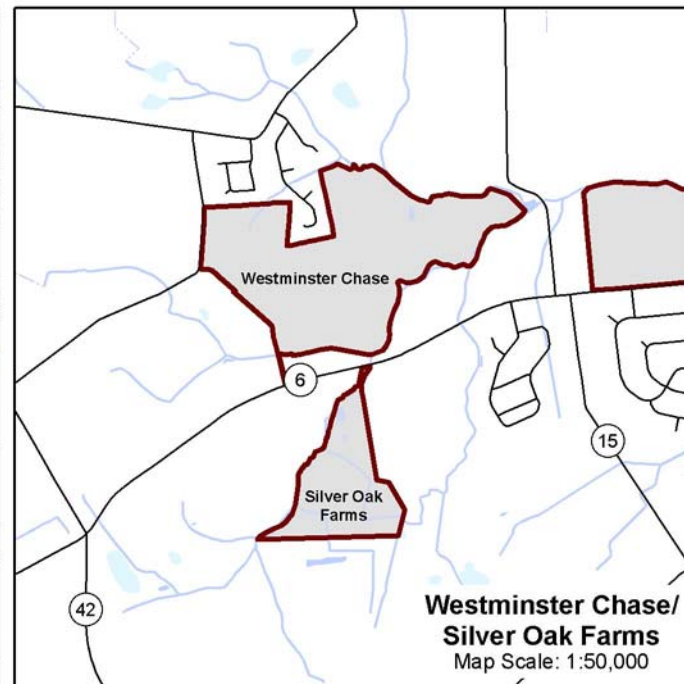


1,592 housing units; population of over 4,000 if built

Clayton v. Westminster Chase / Silver Oak

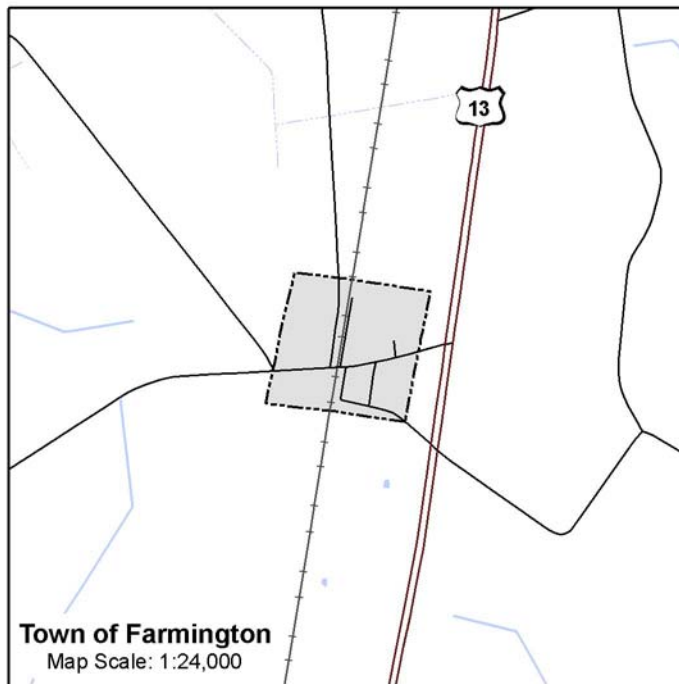


Population 1,273 in 2000

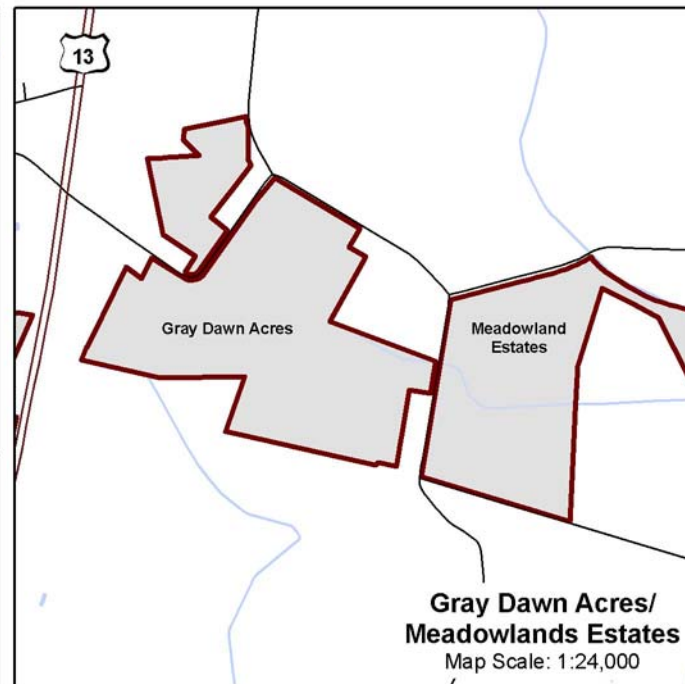


Combined 547 housing units,
population of over 1,300; regional
wastewater system

Farmington v. Grey Dawn Acres / Meadowland Estates



Population of 75 in 2000



Combined 251 housing units,
population of over 650

So what? What are the Impacts to State Taxpayers and Services?



Rural Lands / Farmland



or. . . Residential Development

Rural Subdivisions: Bringing the City to the Country

Location	Housing Units	Residents
Wilmington	32,138	72,664
Proposed in Rural Areas, February 2004-present	15,050	38,227* (estimated)
Dover	13,195	32,135
Newark	9,294	28,547
Milford	2,897	6,732
Seaford	2,809	6,699

Sources: 2000 Census; Office of State Planning Coordination PLUS records

* Population estimated using Census 2000 average household size for Delaware (2.54 persons per household)

A quote from Kent County Levy Court Commissioner Brooks Banta:

“Taxpayers should not be required to subsidize unplanned development or sprawl. But stand-alone community wastewater systems that allow large, denser developments to sprawl into rural areas force taxpayers to do just that.”

From:
ANTI-SPRAWL ACT DESERVES SUPPORT
A Guest Opinion by P. Brooks Banta
In the June 22, 2005 Delaware State News

Provisions of Sprawl Prevention Act (House Bill 280)

- “Community Wastewater Systems” not permitted in rural areas
- Rural Areas: Located in Level 4 as per *State Strategies* and **not** in a County or Municipal Growth or Annexation Area
- Lot size for “Individual On-Site Wastewater Systems” increased from one half to four acres
- Does not effect subdivisions with 5 or fewer lots
- Agricultural Districts, Ag-Economic Development are exempt
- Includes a variance and appeals process

Why focus on Wastewater Systems?

- State permits wastewater systems, but until now we have not specified where they are appropriate.
- These systems are enabling subdivisions larger than towns
- Community systems have their place, but have many drawbacks in rural areas
 - Expensive to install and maintain
 - Many are as large and complex as municipal systems
 - Government asked to take over if management fails
- Small lots with on site systems have same issues

Our Research: There is Equity in our Rural Lands

- Discovered that there is tremendous value in rural lands if they are protected
- We have plenty of room to grow in our growth zones – why not have our cake and eat it too?
- Concerns of farmers and rural landowners are valid. We have learned much about how to address them.

This is not a radical, untested idea:

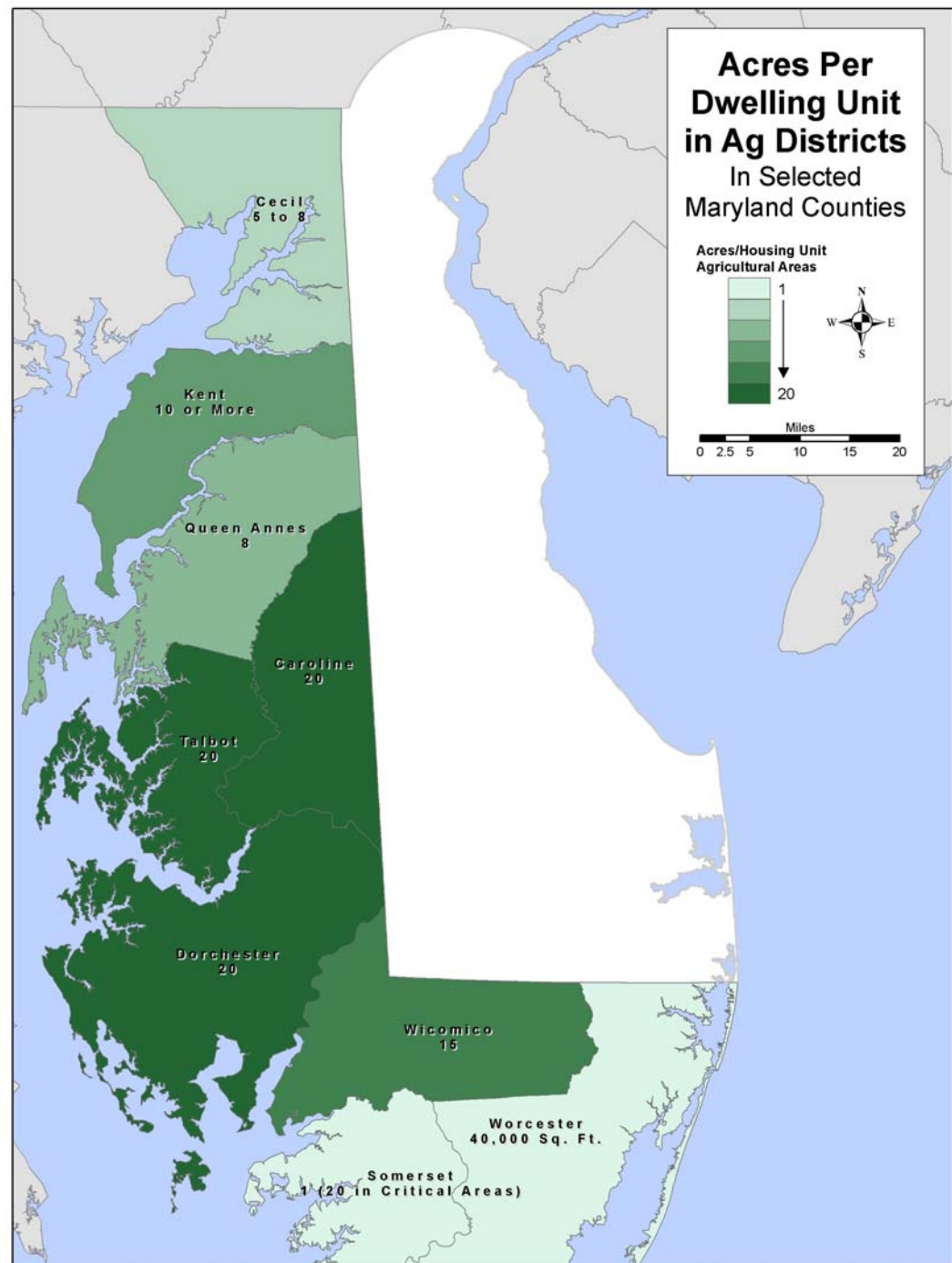
- Delmarva Counties

- Three counties have 20-acre minimum lot sizes
- The average, minimum lot size in rural districts is 10.8 acres per lot
- Even New Castle County has 5 acre zoning in rural areas

Sources: Rogers, S.J.T. et al. (2003, December). *Downzoning: does it Protect Working Landscapes and Maintain Equity for the Landowner?*
Somerset County staff, wicomicocounty.org, and co.worcester.md.us

A Proven Approach to Rural Preservation

- Cecil: 5 to 8 acres
- Kent: 10 - 30 acres
- Queen Annes: 8 acres
- Caroline: 20 acres
- Talbot: 20 acres
- Dorchester: 20 acres
- Wicomico: 15 acres
- Somerset: 1 acres
- Worcester: 40,000 sq. ft.



The Act Is Not a “Taking” of Private Property

- Supreme Court Precedents
- Physical Takings
 - Invasion or confiscation of property
- Regulatory Takings
 - Eliminating all productive use of land through a regulation
- Sprawl Prevention Act does neither
- Bill developed with the help of Delaware attorneys specializing in takings law

Land Will Not Be Devalued

- Maryland Studies
 - Found little evidence of land devaluation
- Unexpected Findings
 - Large lot requirements in Ann Arundel County helped preserve and increase some land values.
- Preserving agricultural land enhances the value of agricultural land

Sources: Rogers, S.J.T. et al. *Downzoning: Does it Protect Working Landscapes and Maintain Equity for the Landowner?* Maryland Center for Agro-Ecology, Inc.

Lynch, L. & Nickerson, C. (2001). The Effect of Farmland Preservation Programs on Farmland Prices. *American Journal of Agricultural Economics*, 83, 341+.

Rural Land Owners Have Many Options

- Land Use Options
 - Farming
 - Equine Industry
 - Poultry Industry
 - Ag-Commercial/Industrial
 - Ag-Tourism
 - Large Lot Development
- Equity Transfer Options
 - Federal Programs
 - State Programs
 - TDR and PDR
 - Private Organizations
 - The Nature Conservancy
 - Delaware Wildlands



Farmers will still be able to get loans

- Primary Loan Criterion
 - Borrower's character and reputation to repay loans
- Secondary Loan Criterion
 - Ability to repay loan (annual earnings)
- Other Considerations
 - Collateral (actual v. speculative)
- “Lenders want to be paid back, not be in the real estate business.”



Source: Coughlin, R.E. (1984, May). *The Effects of Agricultural Zoning on the Ability of Farmers to Borrow Money*. (Research Report No. 8) Philadelphia, PA: University of Pennsylvania Department of City and Regional Planning.

There Are Viable Retirement Options for Farmers

- Conservation Estate Planning
- Equity Transfer through PDR, TDR, other programs can help families with needed liquidity **and** they still own the land.
- Preservation options can help families retain more equity rather than selling to a developer
- Individual goals and strategies for retirement must be carefully evaluated with trained professionals

Case Study: A

Property:

400 acre farm with barns and outbuildings in an area targeted for conservation of working lands
300 acres tilled, 100 acres woods (high quality mature forest habitat)

Fair Market Value of Property in 2005:

\$8M (\$20,000 per acre)
Value of Conservation Easement \$6M
Basis \$250,000

Owner:

Widow, 80 years old, living in farmhouse on farm
3 adult children, two living out of state
one adult child living on lot subdivided off farm, assisting Mom, and actively involved in farm's management

Widow's other assets:

Life insurance \$100,000 (death benefit)
Social security \$1,500 per month = \$18,000 per year
Investment income: \$100,000 principle earning 5% per year = \$5,000 per year
Farm operations netting income of \$30,000 per year

Landowner Goals:

To see farm preserved
To distribute her estate equitably among her 3 children
To pass on the farm to the child living and managing the farm
To maintain decent retirement income for lifetime, including health care insurance, long term care insurance and other living expenses (currently \$47,000)
To live out life on farm
To minimize property, estate, gift, income, capital gains, and transfer taxes and broker's fees.

Scenario:	Scenario #1 Do nothing.	Scenario #2 Sell title to developer. (\$8M value)	Scenario #3 Sell title to conservation agency, retain life estate.	Scenario #4 Donate conservation easement. (\$6M value)	Scenario #5 Donate conservation easement by bequest.	Scenario #6 Bargain sell conservation easement. (50% FMV = \$3M)	Scenario #7 Sell conservation easement at FMV. (\$6M value)
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Landowner's Goals Achieved?

Preserve farm	No	No	Yes	Yes	Yes	Yes	Yes
Distribute estate equitably among heirs	Probably (will need to sell farm to pay estate taxes and distribute estate)	Yes	Yes	No	No	Yes	Yes
Pass on the farm to the child living on and managing the farm	No, if sold for estate taxes	No	No	Yes	Yes	Yes	Yes
Maintain decent retirement income for lifetime	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Live out life on farm	Yes	No	Yes	Yes	Yes	Yes	Yes
Minimize property taxes	Probably	Yes	Yes	Probably	Probably	Probably	Probably
Minimize Estate Tax	No	No	Somewhat	Yes	Yes	Somewhat	No
Gross estate							
Real estate	\$8,000,000	0	0	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Liquid assets	\$200,000	\$6,180,000	\$4,804,861	\$200,000	\$200,000	\$2,795,765	\$5,037,500
Estate taxes w/o special use or exclusion	\$3,139,000	\$2,189,600	\$1,543,285	\$319,000	\$319,000	\$1,539,010	\$2,592,625
Estate Tax with Farm Use Valuation	\$2,739,500	N/A	N/A	Maybe	Maybe	Maybe	Maybe

Abundant Land is Available in Growth Zones

- Real estate capacity inside growth zones
 - At least 2.53 times more land than needed through 2030

Available versus Needed Acreage, Investment Levels 1,2, and 3, 2002 - 2030

	Buildable Acres, 2002			Projected Housing Growth	Ratio of Available to Needed Land		
	Total	% Residential	Available for HUs		At 3 HU Per Acre	At 5 HU Per Acre	At 7 HU per Acre
Kent	42,624	76.70	32,693	14,305	6.86	11.43	16.00
New Castle	55,624	71.06	39,526	46,937	2.53	4.21	5.89
Sussex	71,427	78.88	56,342	45,191	3.74	6.23	8.73
State of Delaware	169,675	74.31	126,085	106,433	3.55	5.92	8.29

Source: Delaware Strategies for State Policies and Spending

Plenty of Room to Grow

- Approximately 9,000 existing lots in Kent (66% in Growth Zone)
- 9,584 lots in Kent's approval process (87% in Growth Zone)
 - Kent has been issuing 1,200 C.O.s per year
- Approximately 24,000 vacant lots in Sussex
- Approximately 15,700 vacant lots in New Castle

Construction Trades will continue to be active as long as Delaware grows

- Construction Trades
 - Depend on housing market demand in Delaware
- Housing Demand
 - Depends on job opportunities, quality of life, low tax rate, etc.
- Sprawl Prevention Act
 - Will not negatively affect any of the above
 - We have plenty of room to grow in our growth zones

Affordable Housing

- Affordable Housing Outside the Growth Zone
 - Affordable Housing should not be built in rural areas
 - Despite cost savings, private market is not building affordable housing
- Affordable Housing Inside the Growth Zone
 - Plenty of land for future growth
 - Will accommodate affordable housing
- Challenge will be met by federal, state, and local government, and private industry

You can live in the country if you want to

- Delawareans have many rural residential options:
 - Lot in existing subdivision / existing rural lot
 - Minor subdivision (5 lots or fewer)
 - Farmette of 4+ acres
 - Estate Lot
 - Live on a Farm
- Preserving that lifestyle choice:
 - Curb large-scale development in rural areas
 - Preserve rural landscapes

We Don't Expect Large Lot Sprawl

- The Business Model for Delaware Development
 - Seeks to maximize profit
 - Compact development increases profit
- Large Lots are Currently Allowed, but. . .
 - Developers favor large scale, small lot subdivisions
- Large Lot development not likely
 - Infrastructure costs prohibitive for large lot subdivisions
 - Sufficient land in growth zone for more profitable compact development
 - Other jurisdictions with similar lot sizes have not experienced large lot sprawl (New Castle County)

Conclusion

- We need to protect our options and our quality of life in Delaware.
- This bill is needed to preserve what is important about Delaware's landscape and economy.
- We must invest our limited tax dollars wisely in the best interest of the public at large.
- We have planned to grow, now we must grow where we have planned!
- We are continuing to work with local communities, rural landowners, and elected officials on this issue

A quote from Secretary of Agriculture Michael Scuse:

“I've also heard plenty from farmers and nonfarmers alike who think growth is occurring too rapidly and haphazardly in our state. What will our quality of life be, what will happen to green spaces and natural habitat, and who will still want to live, visit and work here if development can sprawl virtually anywhere in the state? What are we leaving for future generations who want to farm or enjoy the open spaces we have today?”

From:
Farming Competes with New Suburbs
A Delaware Voice Column
In the May 31, 2005 News Journal